THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos. 5588 and 5589 OF 2007

Dated 22nd March 2007

Between:

Smt.P.Jyothi & another

…Petitioners

and

The State Transport Appellate Tribunal,
A.P., Hyderabad, & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION Nos. 5588 & 5589 OF 2007

COMMON ORDER:

Both the writ petitions arise under similar circumstances. Hence, they are disposed of through a common order.

Two vehicles are being operated on a town service route from Nakkaladinne in Madanapalli town to C.T.M. of Chittoor District. The petitioners submitted applications before the Regional Transport Authority, Chittoor, the 2nd respondent herein, for grant of pucca permits. The 2nd respondent issued notice to the Regional Manager, APSRTC, Chittoor, the 3rd respondent herein. An objection petition was filed by them. The matter was heard by the 2nd respondent, and an order was passed on 26.10.2004, rejecting the application of the petitioners, on the ground that the proposed route is not an existing one, and in view of Rule 258(2)(ii) of A.P. Motor Vehicles Rules, the

permission of Transport Commissioner is necessary, to classify the route as town service. Another ground, on which the 2nd respondent rejected the application of the petitioners, was that the route is to be formulated, as required under Section 68(3)(ca) of the Motor Vehicles Act, by the Government. Aggrieved by the orders of rejection, the petitioners preferred appeals, being A.P.No.56 and 27 of 2005, respectively, before the State Transport Appellate Tribunal. The Appellate Tribunal allowed the appeals, setting aside the order passed by the 2nd respondent. It remanded the cases, by observing that the question as to whether the route overlaps the notified route, needs to be considered, afresh.

Sri T.Venkata Ramana, learned counsel for the petitioners, submits that the 2nd respondent rejected the applications, on the ground that the route is not an existing one, and it needs to be formulated, and the question of overlapping was not urged, for all practical purposes, before it. He contends that even before the Appellate Tribunal, it was not urged. Learned counsel urged that once the Appellate Tribunal was convinced that the grounds, on which the 2nd respondent rejected the applications, were not tenable, it ought to have allowed the appeals, straight away, instead of remanding the matters.

Learned Government Pleader for Transport and learned Standing Counsel for APSRTC, on the other hand, submit that the record clearly discloses that the APSRTC had urged two contentions, *viz*; that the route, on which the permits are sought, is new one; and that there is overlapping of notified route, and that the 2nd respondent rejected the applications, by treating one of the grounds as sufficient. They contend that when the record discloses that the second point

was also urged, no exception can be taken to the impugned order.

It is true that the applications of the petitioners were rejected by the 2nd respondent, by taking the view that the route is a new one and the permission of the Transport Commissioner is to be obtained, as a condition precedent. A further observation was made to the effect that it needs to be formulated, under

Section 68(3)(ca) of the M.V.Act. The 2nd respondent himself, while summing up the submissions made before it, took note of the other objections raised by the 3rd respondent, which is to the effect that the route in question is overlapping to the extent of 15.9 kms, on the notified routes, approved in G.O.Ms.No.289, dated 20.3.1979. This point obviously was not dealt with elaborately, by the

2nd respondent, because it rejected the applications of the petitioners, on certain other grounds. The occasion for the Appellate Authority, to allow the appeals and grant permits to the petitioners, would have arisen, if only the contention urged on behalf of the 3rd respondent was dealt with by the 2nd respondent, and a different view is taken by the Appellate Authority. As observed earlier, the 2nd respondent rejected the application, without dealing with the contention, as to overlapping, and the Appellate Tribunal felt that the parties be given an opportunity, to urge their contentions, on the question of overlapping. This court does not find any basis to interfere with the order.

The writ petitions are accordingly dismissed. It is, however, made clear that it is open to the petitioners, to put forward all their contentions on the question relating to overlapping. There shall be no order as to costs.

22nd March 2007

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